



OMBUDSMAN'S REPORT



Annual report of the Iowa Citizens' Aide/Ombudsman

2003

April 2004

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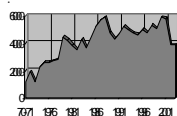
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Ombudsman's message

A checklist for good government

Bill Angrick



Responding to complaints about government in a time of reduced resources is a challenge. Not only do we receive complaints about service and delivery delays and program cutbacks, but we, ourselves, are faced with having to decide which issues and complaints we accept and which we decline, based upon our available staffing, resources and caseload.

If we cannot adequately conduct and timely complete an inquiry should we even begin? The statute under which the Ombudsman exists permits discretion and my staff and I may decline to investigate a complaint if we do not have sufficient resources. Exercising this discretion is not a pleasant responsibility. However its exercise can also have some beneficial consequences. The Ombudsman statute allows us to decline an investigation if the complainant has other avenues he or she can reasonably be expected to use, for example an established appeal or grievance procedure.

It is not efficient public administration to have redundant processes nor to usurp the prerogative of one entity to respond to and, if appropriate, correct its own mistakes,

excesses, or inequities. Similarly, having a governmental agency that fields and fixes everyone's problems is not desirable either. When citizens come to rely upon others to do what they can reasonably be expected to do themselves, they may become dependent and individually ineffective. Additionally they do not develop or hone their ability to articulate issues, persuade others, and achieve results. A citizenry with those skills is, in my opinion, an important ingredient of the civic culture of democracy.

A proper role for the ombudsman, especially in times of limited resources, is to inquire when established processes and procedures do not work, when unreasonable, inconsistent or unfair patterns appear, or when immediate risks exist for safety, health, or basic human rights violation by government action or inaction. These are the kinds of complaints we are continuing to prioritize. How we balance the wide range of complaints, dissatisfactions, misunderstandings, miscommunications, information requests, and other contacts the Ombudsman receives daily is the reality we work with.

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Eight steps for resolving your own complaints

"What steps have you taken to resolve the problem?" That's often one of the first questions we ask people who contact us with a complaint.

Under law, one of the scenarios in which the Ombudsman is not required to investigate is when people have available "another remedy or channel of complaint which [they] could reasonably be expected to use." [Iowa Code section 2C.12(1)]

And it's not just the law – it's also simple, common sense. Disputes and grievances can be resolved with simple, honest communication. Certainly not all the time, but enough that it's almost always worth trying *before* filing a complaint with our office.

Here are some basic, important guidelines to follow when you're trying to resolve any "consumer" problem, whether it involves a government agency or not.

1. Be pleasant, persistent and patient. The wheels of government do usually move, but not always quickly. We've found that the citizens who are best able to get problems resolved have three core traits in common: They treat everyone with respect and courtesy; they don't give up easily; and they realize that most problems are not resolved overnight.

2. Exercise your appeal rights. Does the problem involve a decision or action that has a formal appeal process? If you're not sure, ask the agency. The right to appeal usually has a deadline. Respond well before the deadline and consider sending your appeal by certified mail. If you can't write before the deadline, call to see if you can get an extension or if you can appeal by telephone.

3. Pick the right communication mode. If you're not filing a formal appeal, decide whether you want to contact the agency in person, over the phone or through a letter or e-mail. Go with the mode you're most comfortable with, unless the problem is urgent, in which case you'll probably want to rule out a letter or e-mail.

4. Strategize. Before making contact, consider who your likely audience will be. Will it be someone who can actually fix the problem to your satisfaction? If not, your initial goal might be along the lines of patiently explaining your concern, listening to the response, and then politely asking to speak with a supervisor – perhaps even more than once!

Continued on page 4

Top Ten Government Websites

Surfin' the Net is child's play!

When Iowa was in its infancy, the size of many counties was determined by how far a horse could travel in one day.

Now, a person could visit each of the 99 counties through cyberspace in a matter of hours, without leaving home.

My how far we've come!

To help navigate through the maze of the Internet, we've put together a list of 10 websites that will quickly put you in touch with almost any facet of state and local government in Iowa. This is certainly not an exhaustive list, but one that should help you get started in finding whatever you might be looking for.

1. Official State of Iowa website — www.iowa.gov/state/main/index.html
2. State agencies — www.iowa.gov/state/main/govagenciesfl.html
3. Legislative — www.legis.state.ia.us
4. Judicial — www.judicial.state.ia.us
5. Cities — www.iowaccess.org/main/addressbooks/ADcities/index.html
6. Counties — www.iowaccess.org/main/addressbooks/ADcounties/index.html
7. Public school districts and Area Education Agencies — www.ia-sb.org/usefullinks/usefullinks.asp
8. Iowa law — www.legis.state.ia.us/IowaLaw.html
9. "Sunshine advisories" — www.state.ia.us/government/ag/Sunshine_adv/sunshine.html (primers on the Open Meetings and Public Records laws)
10. Citizens' Aide/Ombudsman — www4.legis.state.ia.us/cao



How to reach us

E-mail: Ombudsman@legis.state.ia.us

Internet: www4.legis.state.ia.us/cao/

Phone: 1-888-426-6283
(515) 281-3592

Address: Ola Babcock Miller Building
1112 East Grand Avenue
Des Moines, IA 50319-0231

TTY: (515) 242-5065

Fax: (515) 242-6007



Open records and meetings

Did you hear what I heard?

A high school student was found to be in violation of his school's "good conduct" policy. His punishment included being declared ineligible for wrestling.

The student filed an appeal with the school board. During a regularly scheduled meeting, the board voted to go into a closed session to discuss the student's appeal.

A woman who was in the audience at the open portion of the meeting contacted us two days later. She alleged the board had violated several provisions of a section of the Iowa Open Meetings Law (Code section 21.5, titled "closed session.")

We investigated the complaint by interviewing seven people who were at the meeting, including the superintendent, the student's father, and three of five board members (one did not return our calls, and one was not present). We also reviewed the Open Meetings Law and consulted with an attorney for the State Department of Education (DOE).

The main issue was whether the board "publicly announced" two items required by law. The first was the specific provision under section 21.5 authorizing the closed session, which the complainant was "absolutely certain" had not been publicly announced.

The superintendent and the three board members said a board member did read a prepared statement, which was a motion to "hold a closed session as authorized by section 21.5(1)a of the open meetings law."

We reasoned that because the law requires these items to be "publicly announced," that implies that people in attendance be able to hear the announcement.

So we interviewed three other citizens who were present. All three were uncertain whether the board had made such a public announcement. Each said it was possible that it was read and it was possible that it was not read.

Most importantly, five of the people we interviewed — including two board members and the superintendent — noted there had been problems, even before the meeting in question, about the ability of people in the audience to ac-

tually hear the board during its discussions at open meetings.

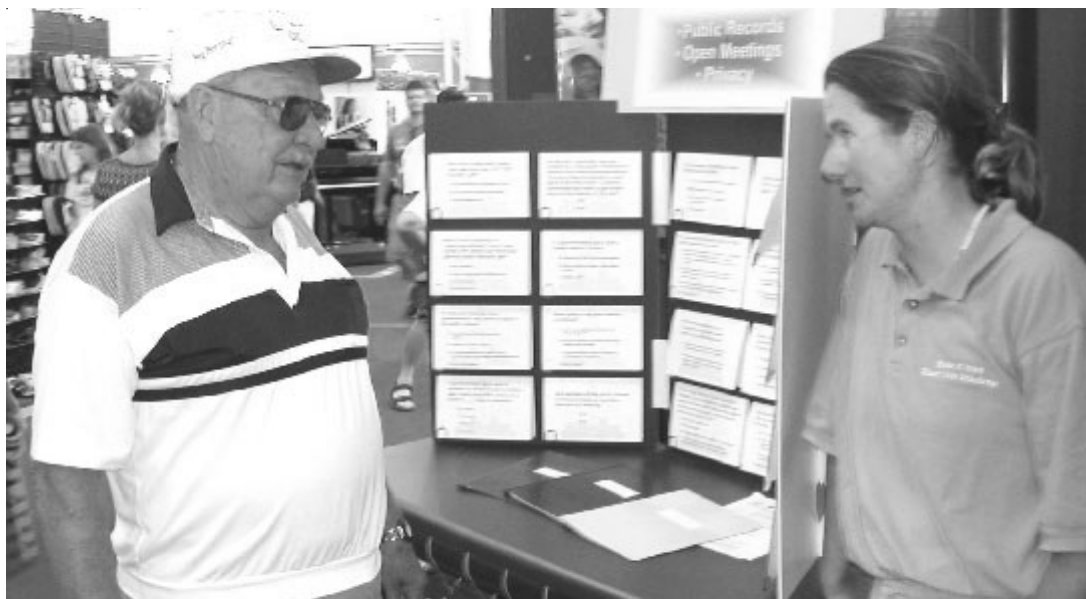
Concerns expressed included a "noisy fan" and the need for board members to speak in a manner that allows audience members to actually hear them.

The second item allegedly not publicly announced was the vote of each member on the question of going into the closed session. The three board members said a roll call vote was taken.

However, one board member said the vote "did click pretty fast," while another said it was conducted "kind of in a low tone." None of the citizens we contacted could recall the board taking a roll call vote.

Based on this information, we found that even if the board did discuss the two items, people in the audience did not have a reasonable opportunity to hear them. We therefore concluded the board did not meet the legal requirement to "publicly announce" both items.

We then recommended that the board "take or facilitate, as soon as practicable, any reasonable steps necessary to remove or reduce any hindrances to the public's opportunity to hear the board's deliberations during open meetings." In response, the superintendent said staff installed a toggle switch on the noisy heater, and he also asked board members "to speak more clearly and in a higher audible tone."



Assistant Ombudsman Angela Dalton talks with a fairgoer at the Ombudsman office's booth during the 2003 Iowa State Fair.

No free lunches, but free speeches are OK

A small town was preparing to hold its first "Annual State of the City Address." It would feature the mayor giving a speech about the "state" of the city.

Two days before the event, a citizen called us. Anyone could attend, but each had to pay \$12, for the cost of dinner. She questioned whether it was fair to require people to pay \$12 to attend a public speech by the mayor. She also noted that council members would be there and questioned whether that violated the Open Meetings Law.

We immediately called the city manager. Through conversation, we asked whether they would allow people to attend for free — creating the option of skipping the dinner for those who just wanted to watch the mayor's speech.

"We hadn't thought about that," the city manager replied, and agreed to implement our suggestion. He promised to immediately contact local media to let people know about this additional option.

On the Open Meetings issue, we reviewed Iowa Code Chapter 21, and consulted with an assistant attorney general and the director of the state Freedom of Information Council. They concurred that the event would not qualify as a public meeting under Chapter 21, as long as council members did not engage in deliberation or vote on public policy issues.

We relayed this information to the city manager. He confirmed they already knew that council members could not begin discussing public policy issues, or the law would apply. The city manager later said the city videotaped the event and showed it on a public access channel five times.

Committee comes into compliance with Open Meetings Law

A city council formed a committee to make recommendations for a Vision Iowa project. Committee members were uncertain whether they needed to follow the Iowa Open Meetings Law.

A citizen contacted our office about the committee. We found that it met the definition of a governmental body under the Open Meetings Law, because of its duty to make recommendations to other political subdivisions on public policy issues.

Inquiry opens drainage district review process

Whether a proposed action on a drainage district is a repair or an improvement may not seem like a major distinction. After all, the proposed work to be done is the same and it will cost the same.

It does make a difference though on whether the public gets a chance to comment on the project before it happens.

In one case, a county was planning to clean a drainage ditch. The county knew that under state law (Iowa Code Chapter 468), it could "restore or maintain" a drainage district without first notifying the public.

A nearby landowner, however, believed the proposed work involved more than restoring the ditch to its original flow amounts. He contacted our office, asserting that Chapter 468 actually required the county to hold a public hearing before approving the project.

We reviewed the law and initially saw that there might

The committee chair agreed and admitted there was also confusion about the time and location of the group's first meeting. We determined the second meeting had an improper closed session, and an inaccuracy on the meeting minutes. By the third meeting, the chair made a formal announcement advising the body to follow the Open Meetings Law, gave information to members, and moved to redraft the minutes from the previous meeting.

not be an easy answer. For example, the term "improvement" is used in several paragraphs under the same Code section entitled "repair." We began to wonder if perhaps it would take a professional engineer to determine whether this project was more appropriately described as an improvement or a repair.

But when our office made inquiry, a simpler resolution materialized. The county was confident they had applied the correct Code of Iowa section and defined the project correctly. However, rather than spend resources to prove they were right, the county decided to start the process over with additional notices and a general public meeting.

The philosophical question of "when is a repair not an improvement" was not answered. But the public was given a chance to be heard on whether the proposed work on this drainage district should go forward.

said the detective who worked the case was positive that he did share basic information with the family over the phone.

Because the family was saying otherwise, we asked the city attorney to write a letter to the family, giving the basic information required by law (and that the detective said he'd already shared). The city attorney accepted our suggestion, and addressed a letter to the out-of-state sister.

Sister finally gets information about brother's suicide

A man committed suicide. His family members, who don't live in Iowa, tried to get information from the local police department.

A few months later, a sister contacted our office. She said the police department would not even share basic information about the suicide, as required by the Iowa Open Records Law (Iowa Code Chapter 22).

We reviewed the law and contacted the city attorney. He

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ADMINISTRATIVE SECRETARY; AND LAURA HEEMSTRA,
SECRETARY RECEPTIONIST, LEFT EMPLOYMENT IN 2003]

This publication was released by the office of the Citizens' Aide/Ombudsman, which printed 2,500 copies at a cost of 29 cents per copy, to provide an annual report to the legislature, the governor and the public.



MHI starts responding to residents' grievances

A resident of one of the state's Mental Health Institutes (MHIs) called our office about problems with the staff there.

While she had filed grievances about these problems, she never received responses to her grievances. She didn't think it was fair that the MHI would not let her know anything regarding the outcome of her grievances.

We contacted the MHI director and a member of the facility's Human Rights Committee, which looked into residents' grievances. Both said their MHI did not share any results of grievance investigations with the residents who filed them. They said this was a long-standing matter of policy and practice.

We responded by questioning whether their policy and practice were appropriate. In response to our concerns, the MHI director agreed to review the issue further.

The director later reported it was discovered that the Department of Human Services (which oversees the MHIs) had a policy dating back to at least 1981. The policy clearly required MHIs to give written responses to residents who file grievances or complaints.

The policy stated in part, "Copies of the proposed decision shall be provided to the client who submitted the complaint, persons implicated in the complaint and any person who may be adversely affected by the decision or their representative. The proposed decision must state what facts

were relied upon by the committee in reaching its conclusions."

The director told us he simply had not been aware of this policy. Upon learning of the policy, the director arranged for written responses to the resident who initiated this complaint. He also drafted and implemented a new Human Rights Policy, in line with the statewide DHS policy. The director took all these steps within about a month of the initial contact by our office regarding this complaint.

Errors trigger improved policies for review and adjust cases

Patience is not always a virtue. A father learned that lesson the hard way from an experience with the Child Support Recovery Unit (CSRU).

He wanted to see if he could get his monthly support obligation lowered. So he submitted an application for a "review and adjust." He followed-up with CSRU several times over the coming months, and each time was told his application was being processed in the order it had been received.

Three months later, he got a letter from CSRU. It said his application was referred to the Legal Department and warned of "a tremendous backlog of cases waiting for the attorneys to review."

So the man waited. And waited some more. Eight months went by after that letter, and he heard nothing more from CSRU. So he decided to file a complaint with the Governor's Office. In response, he got a letter from CSRU saying it stopped reviewing his application because his support obligation was going to end in two months. CSRU cited an administrative rule stating it doesn't have to review applications in cases where the end date of the order is less than 12 months in the future.

That explanation didn't sit well with the man, because he had submitted his application well more than a year before the obligation would end. He felt he was being unfairly penalized for CSRU's inefficiencies. So he contacted our office for help.

We reviewed his complaint and contacted CSRU. They said it appeared a decision was apparently made, after the referral to the Legal Department, to stop the review based on the "12-month rule." But there was no record of who made the decision, or when they made it.

And there was no indication the man was notified until after his complaint to the Governor's Office, even though a letter should have been sent to him shortly after the decision was made. Had CSRU sent the letter at the time, the man could have proceeded on his own, in court. Instead, he had waited in good faith for CSRU to finish.

CSRU then discovered that the attorney who the case was referred to had misread the reason for the referral. The attorney thought the case was referred for enforcement, not modification. So when the man's child support payments kept coming in, the attorney saw no need to act. There was even a computer entry by the attorney, indicating the file would go back to CSRU staff.

In the end, CSRU acknowledged three critical errors:

1. The attorney misread the referral.
2. A worker had told the man early in the process, without qualification, that the review would be done, even though that is not always the case.

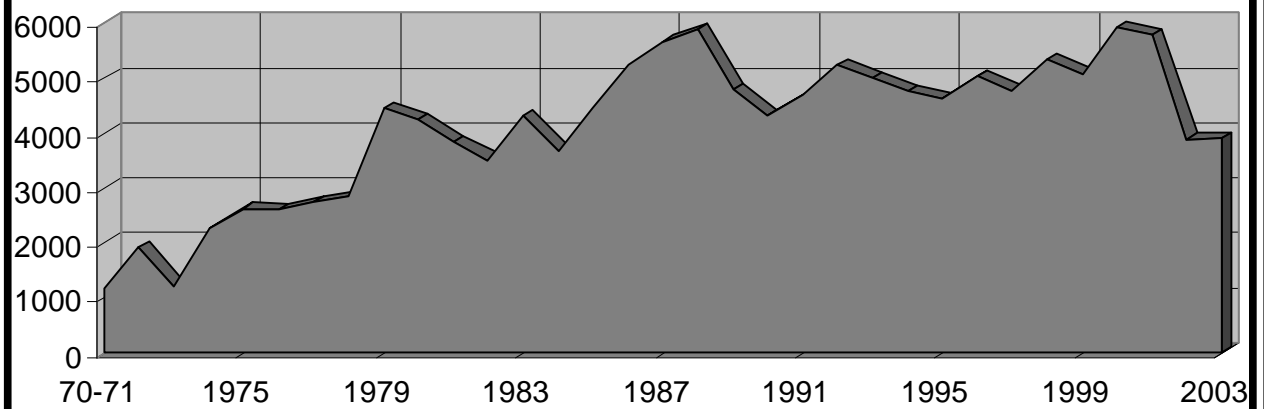
3. The failure to give timely notice that the review would not be done because of the 12-month rule.

To avoid similar problems, CSRU agreed to change its policy and practice. Legal referrals from CSRU workers now go to the legal secretaries; they no longer go straight to the attorneys. The legal secretaries document receipt and then assign the case to the attorneys. When the attorneys finish their work, the case goes back to the legal secretaries to be sent back to the CSRU workers.

CSRU also added a new "calendar flagging" feature to its computer system. When workers now make a legal referral, they tell the computer to flag them after so many days, to remind them to check on the status of that referral.

Finally, at our request, CSRU wrote a letter to the man, apologizing for the errors and detailing its changes to policy and practice.

Annual contacts to Ombudsman since 1970



This chart shows the number of contacts received by the Ombudsman's office each year from 1970 through 2003.

DHS reimburses daycare provider for confusing instructions

Many daycare providers are paid by the Department of Human Services (DHS) to provide daycare services for parents who are in programs such as Promise Jobs.

One of these daycare owners discovered she had been completing her invoices incorrectly for several years. She learned about the problem when the invoice forms were changed and contacted us a short time later. She estimated DHS owed her almost \$3,000.

We reviewed the old forms and agreed that the instructions had been confusing. DHS told the daycare owner they might be able to reimburse her for the previous year but she would need to provide a daily listing of the hours she cared for the children.

This was a problem because the daycare owner wrote the hours on her calendar and she did not keep her calendars from the previous years. It appeared to us that DHS was asking the daycare provider for more information than was required on the original invoices. We argued that the owner's estimates of underpayment — derived from using copies of the old invoices and extrapolating backwards — was fair and reasonable. After numerous discussions, DHS accepted the daycare owner's calculations and agreed to refund her for the entire period. She received a check for \$2,800.

Child Support Advisory Committee



*Deputy and
Legal Counsel
Ruth Cooperrider*

Iowa law (Iowa Code section 232B.18) requires that one of the members of the State's Child Support Advisory Committee be from the Ombudsman's Office. I serve as the Ombudsman's representative to that Committee. The Committee provides input and makes recommendations to the Department of Human Services (DHS) regarding the state's child support program. The Committee met six times on a bimonthly basis during 2003.

The Committee has four subcommittees: Policy and Legislation (on which I served), Operations, Public Awareness, and Membership. I also participated on an ad-hoc work group that continued its examination of the following issues previously identified by the Committee as priority items:

1. Allow for termination or suspension of child support for a child who is in the physical custody of the obligor parent, in situations when the obligee parent will not agree;
2. Allow for termination or suspension of support for a child if both parents agree for that child, but not all of the children covered by the order, to reside with the obligor parent.

At the end of the year, DHS decided not to devote any more time and resources to item #1, due to budget cuts;

however, it would develop rules to create a procedure for addressing item #2. The Ombudsman's Office has received a number of complaints related to situations in item #1, including when custody changes due to a juvenile court order, or when the custodial parent is incarcerated or leaves the child in the physical care of the parent who has been paying support. It is an issue the Ombudsman intends to study further and try to find appropriate solutions.

Iowa law requires the Iowa Supreme Court to review the guidelines every four years, and one of the responsibilities of the Committee is to make recommendations for revisions to the guidelines. The Committee assisted DHS in holding public hearings in Fort Dodge, Tipton, and Des Moines to solicit comments from the public. During its January, March, and May meetings, the Committee spent much time identifying and prioritizing issues from its members and from the public, discussing the issues, and developing recommendations to the Supreme Court. The recommendations submitted by the Committee included:

1. Increase the Qualified Additional Dependent Deduction (QADD) and use a percentage of the income (rather than a fixed amount) based on the number of children.
2. Provide for equitable sharing by both parents in health insurance costs.
3. Consider further the amount of credit for extraordinary or extended visitation (concern was expressed that the definition of "days" is limited to overnight stays).



EXTRA MILERS



Public employees we recognize as special because they deliver top quality service



Attorney General's "Sunshine Advisory Team" (Julie Pottorff, Pam Griebel, Robert Brammer and Chris Scase) — for producing the "Sunshine Advisories," which are monthly primers on Iowa's Open Meetings and Public Records laws for government officials and citizens. One such advisory was instrumental in helping us persuade a municipality to end its practice of requiring citizens to sign off before receiving open records.



Dr. Harbans Deol, Medical Director, Department of Corrections — for the outstanding job he's done thus far at improving how DOC responds to health concerns, particularly mental health issues.



Carol Greta, Legal Consultant, Department of Education — for her openness, responsiveness and knowledge, as well as her willingness to communicate with local school officials even when she's not necessarily required to.



Dave Stutz, Executive Officer, Department of Transportation — for being consistently helpful, thorough and responsive.



Sailor's penalty waived by DOT



Nathaniel Coltrain

Imagine learning that a state agency wants to penalize you for something that's not your fault.

Trouble is, you're stationed on a submarine, halfway around the world, during a war. You don't exactly have a lot of free time. Even if you did, using a telephone is definitely not an option.

What do you do? For one Iowa sailor, the best option was to take it straight to the top: He enlisted his mom.

And so it was that we were contacted last year by Deb Coltrain. Because of a traffic violation, the Department of Transportation (DOT) was requiring her son Nathaniel to carry SR-22 insurance, if he wanted to have a driver's license. (SR-22 refers to a DOT form that verifies a driver is complying with the state's financial responsibility laws.)

When he came home at Christmas, Nathaniel obtained the insurance and his driver's license. Soon after, he changed his residency to another state, where SR-22 insurance is not required, so he dropped his SR-22 coverage. Nathaniel had given the other state a DOT form to complete and return to DOT. This form would have notified DOT of the change in residency and should have lifted the SR-22 requirement.

But the other state did not return the form. So DOT, un-

Ombudsman: Helping make good governments better

Iowa appointed its first Ombudsman in 1970, when Governor Robert Ray established the position in his office. In 1972, the Legislature approved the Ombudsman Act, now located in Chapter 2C of the Code of Iowa. The ombudsman became an independent office working under the auspices of the Iowa Legislature.

The Ombudsman is selected by the bipartisan, bicameral Legislative Council subject to the approval of the General Assembly. The appointment is for a term of four years, renewable for additional terms.

Under Iowa Code Chapter 2C, the Ombudsman is generally charged with answering questions and receiving complaints about most agencies of state and local government in Iowa. Chapter 2C gives the Ombudsman

authority to investigate administrative actions that might be:

- Contrary to law or regulation.
- Unreasonable, unfair, oppressive, or inconsistent with the general course of an agency's functioning, even though in accordance with law.
- Based on a mistake of law or arbitrary in ascertainties of fact.
- Based on improper motivation or irrelevant consideration.
- Unaccompanied by an adequate statement of reasons.

The ombudsman system is based upon the principle that every person has a right to have his or her grievances against government heard and if justified, satisfied.

Old home bites the dust

An excavator operator clears debris during the March 2004 demolition of the small building at 215 East Seventh Street, where the Ombudsman's office was located from 1988 to November 2001. The building was demolished to make room for an addition to the Records Management Building, which is slated to house the Department of Public Safety.



Continued from page 1

5. Plan your questions. Write down your questions before calling or visiting the agency. Be sure to specifically ask which law, rule or policy authorized the agency's actions. Then ask for a copy of the law, rule or policy (so you can read it for yourself, to see whether you agree).

6. Be prepared. Be sure to have any relevant information available before contacting the agency. If you're wanting face-to-face contact, we recommend that you call first. A short phone call could save headaches and wasted time, such as finding the person you need to talk to is sick that day.

7. Keep records. Take good notes of all conversations. This should include the person's name and title, the time

and date, and what they told you. Keep all records received from the agency, even envelopes. And keep copies of any letters, faxes or e-mails you send to the agency.

8. Read what is sent to you. Carefully read everything from the agency, front and back. This includes the fine print!

If all that fails, contact us. Our office has authority to investigate complaints about most agencies of state and local government in Iowa. Major exceptions include the courts, the legislature, and the governor. We don't have authority to investigate any federal agency.

How to reach us

E-mail: Ombudsman@legis.state.ia.us

Internet: www4.legis.state.ia.us/cao/

Phone: 1-888-426-6283
(515) 281-3592

Address: Ola Babcock Miller Building
1112 East Grand Avenue
Des Moines, IA 50319-0231

TTY: (515) 242-5065

Fax: (515) 242-6007

Try it again, Sam!

A Vietnam Veteran, who had lost his peripheral vision in his right eye during the war, contacted our office. He said the Department of Transportation (DOT) refused to renew his driver's license because he has only one functional eye. Before this test, however, he had never been disqualified.

We contacted DOT. They said they could not state specifically why he had failed his field test. The ex-service-man secured a note from his ophthalmologist to present to DOT. But they could not accept this note because the ophthalmologist did not certify the man's competency to drive and the most recent eye exam results had been transcribed incorrectly.

DOT told us that because he failed his field test, his medical information must first be screened by the Medical Advisory Board. This process usually takes four to six weeks. The applicant was allowed to submit whatever medical information he felt necessary. The Medical Advisory Board reviewed his information anonymously, with all identification factors deleted on the medical records presented to them.

The Board found no physical or visual impediment to prohibit the man from driving. He was allowed to retake the writing and driving tests. This time he passed and so his license was therefore renewed.



The Ombudsman Fairness Checklist

Communication

- Public information is available and understandable
- Clients are treated with courtesy
- Forms are in plain language
- Clients are given all the information they need

Facilities and Services

- Telephones are answered promptly
- Voicemail, answering machines or toll-free numbers are available
- Premises are easily accessible and suited for wheel-chairs
- The environment is safe and healthy (for workers)
- The public’s right to privacy is respected

Decision Procedures

- Those affected by a decision have a chance to give information and evidence to support their position
- Decisions are made within a reasonable time
- Reasons are given for decisions

Appeal, Review, and Complaint Procedures

- At the time of decisions, people are told of any existing appeal or review procedures
- Complaint procedures are clearly defined
- The public is asked for ideas on improvements in service

Organizational Issues

- Staff are given clear titles for the functions they perform
- Agencies consider whether reorganizing would give a better quality of service
- Agencies cooperate with one another to give better service to the public

Agency Review and Planning

- The public is invited to participate in planning programs
- How decisions will be made is clear from the beginning
- Statistical information needed to evaluate and improve performance is recorded and maintained

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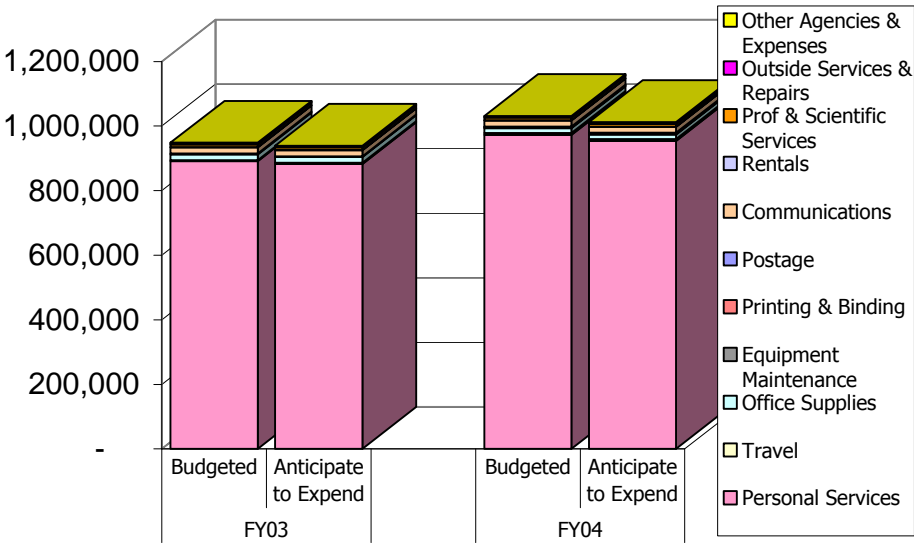
Some Ombudsman offices have published guidelines or checklists identifying the expectations they have for administrative agencies and to allow those agencies to proactively meet what are the common cause of complaints or dissatisfaction. The Ombudsman Fairness Checklist, developed by the Ombudsman of the Province of British Columbia, Canada, is a succinct statement of what good government should entail.

I offer it here (*see above*), with permission, to provide my expectations for Iowa state and local government and in the hope that our governmental agencies and our citizenry can both benefit.

In calendar year 2003, the Ombudsman received 3,876 new contacts (complaints and information requests) and worked on 19 special projects. This is a number of activities roughly equal to the 3,887 contacts we received and 3 special projects we undertook the previous year. During 2003 we completed 3,504 complaints, information requests and special projects, or 90% of the number received. Additionally 601 cases and projects from previous years kept open into 2003 were closed or completed.

The distribution of complaints received in calendar year 2003 differs somewhat from previous years. The number and proportion of corrections-related cases has continued to level off and no longer comprise a disproportionate amount of our caseload. Additionally we improved our ability to categorize public records, open meetings and privacy issues so that those issues were more accurately assigned to the level of government or agency they involved. However we still receive a good number of generic questions about public records and open meetings issues, and other issues as well, so the general category of Iowa Law comprises a consistent number of our contacts annually.

Office of Citizens' Aide/Ombudsman
FY03 & FY04 Financial Information



The above information is presented to meet the requirement that state government annual reports to the General Assembly include certain financial information.

2003: Complaints Opened by Agency

Department or Agency	Jurisdictional complaints	Non-juris. complaints	Information requests	Pending	Total	Percent of total
State government -- jurisdictional						
Administrative Services	5	0	4	1	10	0.3%
Agriculture & Land Stewardship	2	0	2	0	4	0.1%
Attorney General/Department of Justice	11	0	9	0	20	0.5%
Auditor	1	0	1	0	2	0.1%
Blind	1	0	0	0	1	0.0%
Citizen's Aide/Ombudsman	2	0	16	1	19	0.5%
Civil Rights Commission	3	0	1	0	4	0.1%
College Aid Commission	1	0	0	0	1	0.0%
Commerce	9	0	8	2	19	0.5%
Corrections	421	0	39	48	508	13.1%
Cultural Affairs	1	0	1	0	2	0.1%
Economic Development	3	0	1	0	4	0.1%
Education	7	0	2	0	9	0.2%
Educational Examiners Board	0	0	1	0	1	0.0%
Elder Affairs	0	0	17	1	18	0.5%
Ethics and Campaign Disclosure Board	1	0	0	0	1	0.0%
Executive Council	0	0	0	0	0	0.0%
Human Rights	4	0	4	0	8	0.2%
Human Services	448	0	50	40	538	13.9%
Independent Professional Licensure	3	0	1	1	5	0.1%
Inspections & Appeals	36	0	12	3	51	1.3%
Iowa Communication Network	0	0	1	0	1	0.0%
Iowa Finance Authority	1	0	0	0	1	0.0%
Iowa Public Television	1	0	0	0	1	0.0%
Law Enforcement Academy	2	0	1	0	3	0.1%
Lottery	0	0	0	0	0	0.0%
Management	2	0	1	0	3	0.1%
Natural Resources	10	0	6	2	18	0.5%
Parole Board	14	0	11	2	27	0.7%
Professional Teachers Practice Commission	0	0	0	0	0	0.0%
Public Defense	1	0	1	0	2	0.1%
Public Employees Relations Board	0	0	0	0	0	0.0%
Public Health	11	0	16	3	30	0.8%
Public Safety	18	0	1	1	20	0.5%
Regents	24	0	4	3	31	0.8%
Revenue & Finance	35	0	15	2	52	1.3%
Secretary of State	1	0	1	0	2	0.1%
State Fair Authority	0	0	0	0	0	0.0%
State Government (General)	28	0	244	3	275	7.1%
Transportation	65	0	9	3	77	2.0%
Treasurer	1	0	2	0	3	0.1%
Veterans Affairs Commission	1	0	0	0	1	0.0%
Workforce Development	35	0	9	1	45	1.2%
State government - non-jurisdictional						
Governor	0	6	3	0	9	0.2%
Judiciary	0	120	18	2	140	3.6%
Legislature and Legislative Agencies	0	4	6	0	10	0.3%
Governmental Employee-Employer	0	27	2	2	31	0.8%
Local government						
City Government	465	0	45	42	552	14.2%
County Government	486	0	35	60	581	15.0%
Metropolitan/Regional Government	24	0	0	1	25	0.6%
Community Based Corrections	184	0	12	4	200	5.2%
Schools & School Districts	41	0	2	3	46	1.2%
Non-Jurisdictional						
Non-Iowa Government	0	76	34	2	112	2.9%
Private	0	285	66	2	353	9.1%
Totals	2409	518	714	235	3876	100.0%



Local government

The case of the illegible water fountain tile

A small town decided to build a large water fountain. To help pay for the project, the city solicited donations from the public. Each donor would have a commemorative tile placed in or around the fountain.

One man made a contribution in honor of his deceased mother. But when he saw the tile with his mother's name, he felt it was not legible. He asked the city to replace the tile, but the city denied his request. So he filed a complaint with our office.

We reviewed his complaint and contacted the city. They cited several reasons for rejecting the man's request for a new tile:

- 1. The risk of damage to the fountain and other tiles
- 2. If they allow one replacement, they'd have to allow others
- 3. City officials believed the man's tile was not any less legible than many others
- 4. The tiles were actually works of art, each one being handmade and unique.



One of the tiles in this city water fountain was the subject of a complaint investigated by the Ombudsman's office in 2003.

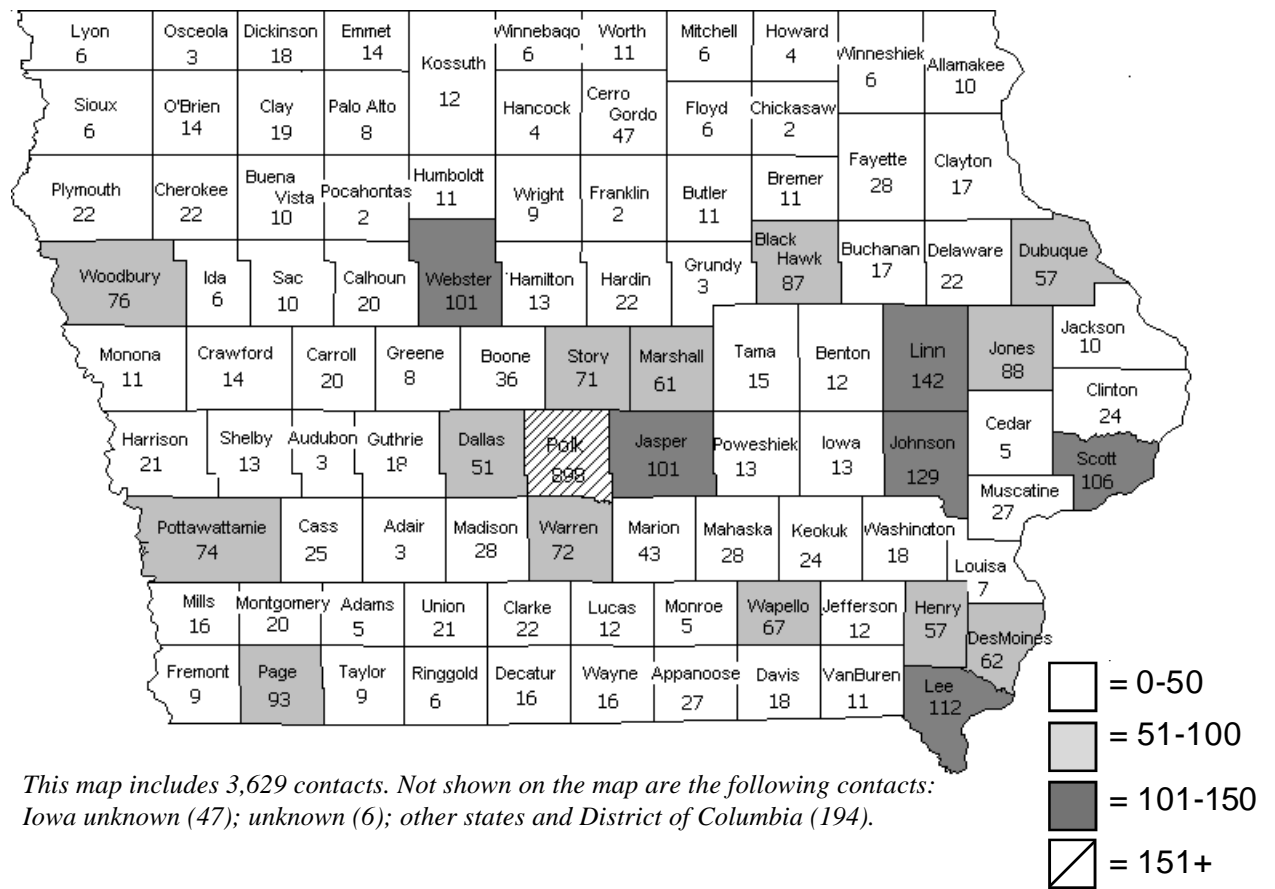
We interviewed the mayor and the potter who made the tiles. We examined the city council's minutes and we also drove to the town to view the fountain and tiles in person.

Our review found that the man's tile is difficult to read from ten feet away – but so were many others. The tiles ranged in color from tan to dark brown-red. The darker tiles were generally harder to read than the lighter ones.

Some were approximately half the size of man's tile. Those smaller tiles have smaller letters and are even harder to read from ten feet away. In the end, we agreed with the potter – the overall project was a work of art, and replacing tiles would jeopardize its integrity and appearance.

As a result, we concluded that the city's denial of his request was reasonable.

Where's your county? Contacts opened by Citizens' Aide/Ombudsman in 2003



This map includes 3,629 contacts. Not shown on the map are the following contacts: Iowa unknown (47); unknown (6); other states and District of Columbia (194).

Thinking outside the box

Just how far do counties need to go in supplementing state and federal welfare programs?

We wrestled with that question in response to a complaint about a county general assistance program. The program had been helping a man buy his medications for more than a year. The program director asked the man to provide a statement from his doctor, regarding the man's ability to work.

But the man said none of his doctors were willing to submit such a statement. As a result, the program director cut off assistance to the man, who in turn contacted our office.

We started by reviewing Iowa law. The answer to the question – how far do counties need to go in supplementing welfare programs – is in Code section 252.25. In short, it requires counties to help “poor persons,” defined as “those who have no property” and “are unable to earn a living by labor.”

The section also states that it “shall not be construed to forbid aid to needy persons, who have some means....”

We then contacted the general assistance program director. By policy, his county helps “needy persons” but only on a temporary basis. The director's dilemma was that he didn't have enough information to determine whether the man could work – the difference between whether further assistance was required by law or not.

In response to our inquiry, the director decided to ask the board of supervisors for permission to contract with a

local physician. Under the proposal, the physician would review the man's medical records and produce a statement regarding the man's ability to work.

The board of supervisors subsequently approved the director's proposal. The director said he would consider the physician's opinion in deciding whether to grant additional assistance to the man, as well as to any other applicants who fall under similar circumstances.

Housing agency puts applicant back on waiting list

A woman was on a waiting list for low rent housing. Out of the blue, she learned that she was no longer on the waiting list. Staff said they had sent her a letter but it was returned as undeliverable.

The woman had moved, but had notified the housing agency as well as the post office of her change of address. Because she had lost her spot on the waiting list through no fault of her own, she called us.

We contacted the agency. They reviewed the matter and found they tried to send the letter to her new address, but staff had typed the address incorrectly. As a result, the agency put her back on the waiting list at the level she was at before the snafu.

Sanitarian withdraws objection to sale of cabin

A woman was trying to sell a cabin. She found a potential buyer, who claimed the county sanitarian had to do a “time of transfer” inspection of the cabin's septic system.

The owner contacted the sanitarian, who visited the site and performed an inspection. The sanitarian then issued a notice, finding the septic system in violation of the county ordinance. The main problem was that while the system drained onto a neighbor's property, there was no recorded easement, contrary to state regulations.

The sanitarian's notice prohibited the owner from selling the cabin without first resolving the easement issue. The owner reviewed the county's ordinance and found the subsection titled “Property Transfer Inspection Requirement” only dealt with changes “in ownership of the land on which the system and/or building is located.”

Because she did not own the land – and was merely wanting to sell the cabin – the owner questioned whether the sanitarian had authority to interfere with the potential sale of the cabin. And since the subsection in question did not seem to require an inspection, the owner also questioned whether the sanitarian should have to rescind the notice of violation and refund the \$100 inspection fee she had paid.

Upon learning about our office, the owner made a two-hour drive to Des Moines to meet with an assistant ombudsman. She carefully explained the situation and allowed us to make copies of the inspection, the local ordinance and other relevant materials.

We reviewed those materials and found a section of the ordinance, which the owner had apparently overlooked, which authorized inspections “whenever the Department of Health has reasonable grounds to believe ... a violation ... exists.”

Other information from the owner indicated the sanitarian became aware of the easement problem just before conducting his on-site inspection. As a result, it appeared the sanitarian did in fact have authority to conduct the inspection, keep the \$100 fee and enforce the notice of violation.

But on the transfer issue, we also found that the ordinance in fact did not seem to authorize the sanitarian to stop the sale of the cabin, since it is not “land” for purposes of the ordinance.

We called the sanitarian the next day and asked him to specify which part of the ordinance authorized him to interfere with the transfer. The sanitarian tried to defend his position, but we were not persuaded by his argument.

On the other issue, he confirmed that he already knew, before his inspection, that there probably was an easement problem. As a result, we told the sanitarian that it appeared the inspection was in fact authorized by the ordinance.

But we also told him we did not feel he had satisfied the question of whether he was authorized to interfere with the potential transfer of the cabin. We asked the sanitarian to discuss the matter with the county attorney.

The county attorney called us a few hours later. He said that, in accordance with our suggestion, the county was going to withdraw its objection to the transfer of the cabin. He also said the county would go forward with a citation for the system not being in compliance, also in accordance with our findings.



Boys will be boys, except when there’s a clerical error

A mother was surprised that her young son’s birth certificate listed him as a female.

She called the Department of Vital Records. A staff member said the mother needed to provide two items documenting her child was a male, in which case they would then amend the birth certificate.

That didn’t sit well with the mother. She was positive the boy was listed as a male when she proofed the information back at the hospital. And she felt an amended certificate might give someone the idea that her child was not born as a male.

So she contacted our office. We checked the administrative rules for Vital Records and found that there is a provision which allows for records to be corrected.

We then contacted Vital Records and explained the matter to a supervisor. She called the hospital and learned they had in fact entered the child’s gender incorrectly. As a result, Vital Records immediately agreed to correct the birth certificate, at no cost to the mother. The supervisor also offered to call the mother to explain what had happened and to apologize for her inconvenience.

Taxman urged to slow down

Imagine getting a message on your answering machine and:

- It’s from the Iowa Department of Revenue and Finance (DORF)
- They’re asking for information about a person you’re not even sure you know.
- The caller speaks so quickly that you can hardly understand what they’re saying
- You can’t even understand the “call back” number!

A man who got such a message decided to call us for help. He said DORF had been calling him about this matter for two years, even though he and his wife had repeatedly said they weren’t sure they even knew the other person.

We contacted DORF and described the complaint. Their representative promised to update their records so that no more calls would be made to the man and his wife. They also agreed to remind staff of the need to speak slowly and clearly, especially when leaving phone messages about third parties.

Licensed to drive

A mother contacted us when the Department of Transportation (DOT) required additional documentation before issuing her son a learner’s permit. She didn’t feel she should have to jump through this extra “hoop” for two reasons:

1. She’d already done so years before with another state government agency.
2. She believed a relatively new federal law made the additional documentation unnecessary.

Her son had been born in a foreign country. After adopting him, she applied for a certificate of foreign birth from the State Department of Public Health (DPH). But to get the birth certificate, she was required to provide proof of adoption.

Now, years later, DOT was imposing a nearly identical requirement: Provide proof of adoption (or citizenship) in order to get the learner’s permit. Since she had to provide proof of adoption to get the birth certificate, she reasoned that the birth certificate in and of itself should be all the proof that DOT needed.

In addition, she argued that her son was already a citizen due to the provisions of the Child Citizenship Act of 2001.

We confirmed DPH’s documentation requirements for certificates of foreign birth. We then reviewed the federal law. In the process, we learned DPH had recently proposed new administrative rules on this very issue.

We presented this information to DOT, which then agreed that a foreign birth certificate was sufficient proof of citizenship for people covered by the federal law.

New policy in the works to help troopers deal with cash

An Iowa State Trooper stopped a vehicle for a traffic violation. A database search of the passenger’s criminal history led to his arrest for an outstanding warrant.

To stay out of jail, the man decided to post a cash bond. The trooper accepted the bond money and promised to get it to the local courthouse.

However, it was a Saturday and the courthouse wasn’t open. The trooper tried to turn over the money to a nearby county jail and then to a deputy sheriff but neither had authority to accept the cash.

The trooper eventually gave the money to a supervisor and two other troopers. They counted the cash to make sure it was all accounted for. Then, one of the troopers went to a post office to mail the money to the clerk of court office in the courthouse of the county where the arrest occurred.

When the defendant made his preliminary court appearance, his bond money had not yet arrived at the clerk of court. He tried calling the trooper to find out what happened to the bond money, but wasn’t satisfied with the explanation.

At that point, the man called our office. We made inquiry with the Department of Public Safety (DPS). Among other things, we viewed the videotape from the in-car camera of the trooper who claimed he mailed the money to the clerk of court office. The audio portion included the sound of something dropping into the mailbox, but the video portion was not helpful because the camera was not turned towards the mailbox.

With the help of DPS’ Professional Standards Bureau, we concluded the money was most likely lost in the mail. We did, however, encourage the man to file a tort claim against the Iowa State Patrol for the lost money.

Because there was no policy for how to handle such situation, we determined the trooper had not acted contrary to policy. However, in response to our suggestion, the department is working to develop and implement a statewide policy of how to handle cash, to minimize the chances of similar problems in the future.

On Second Thought – I Wonder

Computers can be great tools for tracking information such as addresses and using databases for tedious, automated tasks. We’ve lived with computers long enough to generally trust their information.

But problems can happen when several computers and databases have to “talk” to each other. And sometimes it seems computers just have a mind of their own. So the human tendency to still be a little suspicious of machines can pay off.

Such was the case when we asked Workforce Development to find out why a caller had not received an unemployment check. A worker typed the citizen’s name into the computer. The address on file was exactly where the citizen had been living for several years. Apparently the check was just lost somewhere and the only option was to issue a stop payment — a process that takes a lot of time for a person who needs that money to pay bills.

Fortunately, curiosity took hold and a Workforce worker dug deeper. He found a computer error at one local office, where one computer had inexplicably replaced a few current addresses with those entered in years past. The error was found — and fixed — because one worker was curious how a check could get lost going to the “right” address. And the agency promptly reissued replacement checks to the people whose addresses were replaced.

Toll-free numbers



State government

Blind (Department)	1-800-362-2587
Child Abuse/Dependent Adult Hotline	1-800-362-2178
Child Support Recovery Unit	1-888-229-9223
Civil Rights Commission	1-800-457-4416
Citizens’ Aide/Ombudsman	1-888-426-6283
College Student Aid Commission	1-800-383-4222
Commission on the Status of Women	1-800-558-4427
Crime Victim Assistance Division	1-800-373-5044
Economic Development (Department)	1-800-245-4692
Gambling Treatment Hotline	1-800-238-7633
HAWK-I (insurance for low-income kids)	1-800-257-8563
Health Facilities Division	1-800-383-4920
Human Services (Department)	1-800-972-2017
Inspections and Appeals (Department)	1-800-831-1394
Iowa Client Assistance Program (advocacy for clients of Vocational Rehabilitation and Blind Department)	1-800-652-4298
Iowa COMPASS (information and referral for Iowans with disabilities)	1-800-779-2001
Iowa Finance Authority	1-800-432-7230
Iowa Waste Reduction Center	1-800-422-3109
Long Term Care Residents Advocate	1-800-532-3213
Missing Persons Information	1-800-346-5507
Narcotics Division	1-800-532-0052
Revenue and Finance (Department)	1-800-367-3388
SHIIP (Senior Health Insurance Information Program)	1-800-351-4664
Small Business Development Licensing	1-800-532-1216
State Fair	1-800-545-3247
State Patrol Highway Emergency Help	1-800-525-5555
Substance Abuse Information Center	1-800-247-0614
Tourism Information	1-800-345-4692
Transportation (Department)	1-800-532-1121
Vaccines for Children	1-800-831-6293
Veterans Affairs Commission	1-800-838-4692
Utilities Board Consumer Services	1-877-565-4450
Vocational Rehabilitation Division	1-800-532-1486
Workforce Development Department	1-800-562-4692
	TTY: 1-800-831-1399

Miscellaneous

ADA Project	1-800-949-4232
Better Business Bureau	1-800-222-1600
Domestic abuse hotline	1-800-942-0333
Federal information hotline	1-800-688-9889
Iowa Protection and Advocacy	1-800-779-2502
Lawyer Referral Service	1-800-532-1108
Legal Services Corporation of Iowa	1-800-532-1503
Legal Hotline for Older Iowans	1-800-992-8161
Youth Law Center	1-800-728-1172



“Will you take this inmate as your lawfully wedded husband?”

Weddings can be difficult to plan. So it doesn’t help when the groom is in jail and the sheriff won’t allow a marriage ceremony.

Such was the case for a woman who contacted us. She and her fiancé had asked several times for permission to marry. But the sheriff denied each request, saying he’d never allowed a jail marriage in his 23 years as sheriff.

Dr. Marcus Welby, correctional officer?

Correctional officers have a wide range of duties. But that didn’t prepare one officer for the time a doctor asked for help during a medical procedure on a prison inmate.

The inmate complained that the doctor had the escorting correctional officer use a syringe to withdraw fluid from the inmate’s lung. We contacted the prison and officials there interviewed the correctional officer.

She confirmed being involved in the medical procedure. The officer said she was asked to “pull out” on a syringe that was inserted into the inmate’s lungs, from the back. When the doctor advised not to pull too hard or it would collapse the patient’s lungs, the officer stopped.

We shared the officer’s statement with the hospital and asked for review. The doctor and the hospital subsequently agreed that the correctional officer should not have had any role in the medical procedure.

Paint fumes

Painting people’s living quarters has its challenges. Those challenges can be even greater in crowded prisons, where administrators don’t always have the luxury of putting inmates into different cells.

And so it was that we received a letter from a prison inmate, claiming three cells were painted one morning and the inmates were put right back into their freshly-painted cells. The paint fumes were so strong that two inmates complained of headaches. Another inmate reported not feeling well until a nurse put him on oxygen for a few minutes, the letter claimed.

The author of the letter had already filed a grievance. The grievance was denied, and so was an appeal to a deputy warden.

We contacted the prison to get some information, including the “Material Safety Data Sheet” (MSDS) for the paint. The MSDS warned, “Use only with adequate ventilation” and avoid “breathing of vapors.”

Our investigation revealed that:

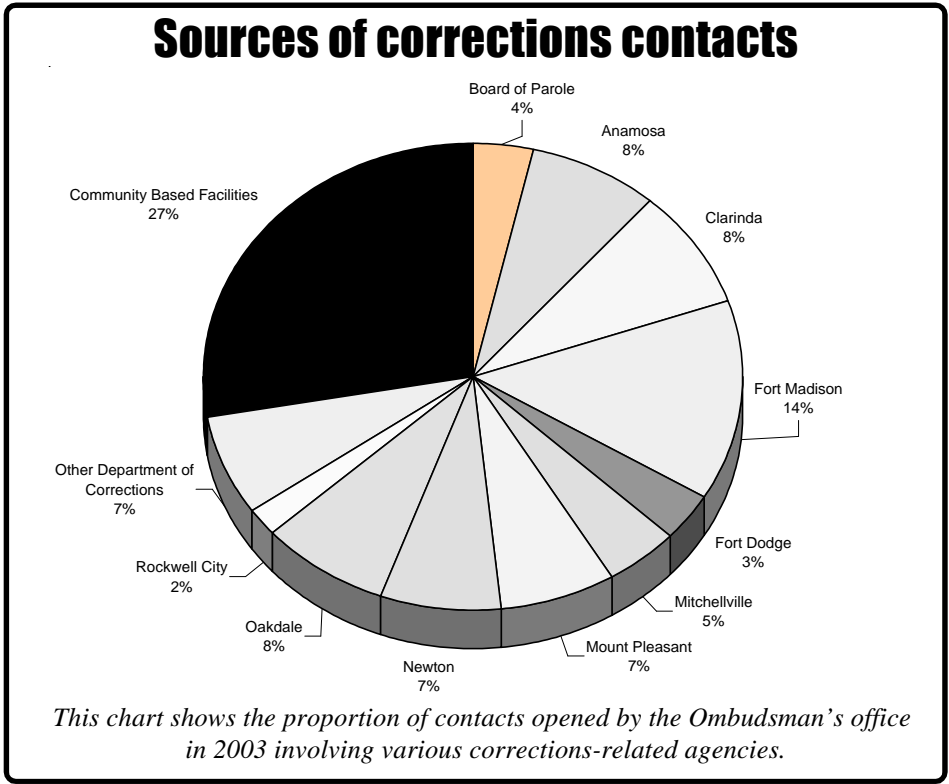
- Inmates were let out of their cells at 8 a.m. and the paint crew finished painting the cells by 8:30 a.m.
- Inmates were returned to the cells at 12:15 p.m.
- The cell doors were left open until late that afternoon.
- No fans were used at any time. Every cell has a vent connected to a ventilation system, which was in the “air conditioner” mode (discharging cool air occasionally).
- Oxygen was offered to the one inmate only as a precaution and not in response to a bonafide medical problem. It was applied for about five minutes, when the inmate asked it be removed.
- Prison staff had previously painted many other cells, and were not aware of

We reviewed state and federal law. We found a 1987 decision by the United States Supreme Court (Turner v. Safley) which held that jails and prisons can deny marriage requests only if they can show the ceremony would threaten security or public safety. We also confirmed that the Department of Corrections (DOC) has a policy modeled after the 1987 court decision.

We asked the sheriff to review the court case and DOC policy with his county at-

torney. After doing so, the sheriff told us he agreed that a complete ban on jail marriages is not permissible under law. He agreed that he must approve marriage requests, unless he can show it would threaten security or public safety. And he adopted a written policy on marriages.

He also decided to approve the request that generated this complaint. The woman married her fiancé at the county jail four weeks after contacting our office.



One person’s mold is another person’s blueberry migration

We’ve received some unusual items in the mail. But the two blueberry turnovers sent from a prison inmate was a first.

“I have been in the food business for 25 yrs,” the enclosed letter said. “I know mold and bad fruit ... [and there] is definitely mold on the pastry and the fruit in it.”

Inmates had been complaining to kitchen staff, who denied there was any mold and “insisted it was the way the filling was.” But that was contradicted, the inmate wrote, by the fact that a staff member had thrown away 900 such turnovers in one day. And he claimed other turnovers “which were even moldier” were kept and served to inmates a few days later.

We carefully examined the turnovers sent to us. While nobody in our small office is a home economics expert, several are confident that we also “know mold.” After

a close inspection, none of us believed there was any mold on the turnovers sent to us.

Because of the claim that staff had thrown away 900 turnovers due to mold, we decided to still go ahead and contact the prison. A kitchen supervisor responded that:

- She wasn’t aware of anyone throwing away 900 turnovers.
- Kitchen staff “felt that it was not mold, it was a mixture of the blueberry juice, sugar and pie dough. Just like you will have on the underside of a blueberry pie top crust.”
- “With the numerous complaints received, even though we didn’t feel it was mold,” the prison had returned 186 cases of the turnovers and received a credit.
- “I am not interested in purchasing individual blueberry turnovers in the future.”

We tracked down a local food broker, who

Jail learns from suicide attempt

Suicide attempts are a tragic reality for correctional facilities. While staff can’t always stop someone from taking his or her own life, staff can be expected to take reasonable steps to reduce the chances.

After a suicide attempt at a county jail, the inmate’s mother said staff had failed to take reasonable steps in light of her son’s history of suicide attempts. We investigated her complaint. Among other things, we reviewed her son’s medical records, the jail’s records, and a number of the jail’s policies. We also interviewed her son and several jail staff.

Based on our investigation, we reached the following conclusions:

1. Jail medical staff failed to adequately assess her son’s continued need for a mental health medication;
 2. Jail medical staff knew or should have known that he had a history of using a particular nonprescription, pain-relief medication as a suicide agent;
 3. Jail medical staff failed to notify security staff of that history; and, as a result, her son obtained 40 tablets of the medication;
 4. The jail administrator failed to notify the man’s mother as next of kin, contrary to jail policy. (Instead, she was notified indirectly, by her son’s public defender.)
- The jail administrator assumed responsibility for the failures and took steps to address each one. Included were changes in policy and practice which we believe will substantially reduce the risk of similar failures in the future. The changes call for better recordkeeping and better communication between medical and security staff, including the development of a computer flagging system that alerts all staff to possible self-injury and suicide concerns.

acts as an agent for the company that made the turnovers. The broker said the manufacturer stopped making the blueberry turnovers, in response to complaints similar to those from the inmates. The broker shared a company memo which concluded that the appearance of mold is due to a phenomenon called “blueberry migration.”

This happens, the memo explained, due to “pigmentation from the blueberries migrating into the dough.” Because of differing pH values, this changes the color to green, “which people mistakenly associate with mold growth. This is a common phenomenon in bakery products containing blueberries” but “does not present a health risk to consumers.”

We relayed this information to the inmate and concluded that the turnovers had not been tainted with mold.

Complaint leads to new seat belt policy

A jail inmate complained his seatbelt had not been fastened when he was transported to prison. He was physically restrained at the time and so he could not fasten the seatbelt himself.

We contacted the jail administrator. He confirmed the inmate was transported to prison in a jail transport van. The administrator did not dispute the allegation, but did assert that the inmate should have asked to be buckled up if he was concerned.

The administrator admitted the jail did not have a policy on seat belt usage, and agreed to develop one. We gave the jail a copy of the Department of Corrections’ policy on use of seat belts during transport. The policy was implemented a short time later.

any previous complaints about paint fumes. (They also acknowledged that some of the cells previously painted had at least one inmate with a fan and presumably they could have used it to disperse the paint fumes.)

We contacted the company that made the paint. We described the prison’s explanation of events. A technical service representative told us he believed the prison had not fully complied with the instructions in the MSDS.

He emphasized that paint fumes don’t affect everyone in the same way. While some people are not bothered at all by paint fumes, the same fumes can cause an allergic reaction in others.

We then visited the prison to speak with staff and see the layout of the cells that had been painted. We relayed the paint representative’s belief that the MSDS had

not been followed.

As it turns out, these were the last three cells to be painted in the prison during this cycle. While it will be several years before cells are painted again, prison officials assured they would follow several suggestions we made, including:

1. Inmates who don’t have fans would be offered a temporary cell reassignment or the opportunity to have a “loaner” fan for at least 24 hours.
2. As long as it doesn’t jeopardize security issues, doors to just-painted cells would be left open for at least a few hours, with a fan strategically placed to maximize outward ventilation.
3. Staff would consider using a paint product with no “volatile organic compounds,” which are the airborne substances commonly referred to as “paint fumes.”